

NO. 24619

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

OSAMU IEDA, Defendant-Appellant.

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(TRAFFIC NOS. 001103145, 001103146)

ORDER

(By: Moon, C.J., Levinson, Nakayama,  
Ramil, and Acoba, JJ.)

Upon consideration of Plaintiff-Appellee State of Hawaii's motion to vacate the judgment and sentence entered against Defendant-Appellant Osamu Ieda and remand this case for a new trial, the papers in support, and the records and files herein, it appears that: (1) Appellant is appealing from the September 21, 2002 judgment of conviction and sentence entered in the District Court of the First Circuit; (2) in the opening brief, Appellant contends that the district court erred when it failed to advise Appellant of his right to testify and when it failed to obtain directly from Appellant an on-the-record waiver of the right to testify as required by Tachibana v. State, 79 Hawai'i 226, 900 P.2d 1293 (1995); (3) the State agrees that the district court failed to comply with State v. Tachibana; (4) when the State confesses error, it is incumbent upon the court to ascertain that the confession of error is supported by the record and well-founded in the law. State v. Wasson, 76 Hawai'i 415, 419, 879 P.2d 520, 523 (1994); (5) as the State acknowledges,

review of the record reveals that the district court failed to comply with the requirements of State v. Tachibana. Therefore,

IT IS HEREBY ORDERED that the State's motion to vacate the judgment and remand for a new trial is granted, and the judgment and sentence is vacated, and this case is remanded to the District Court of the First Circuit for a new trial.

DATED: Honolulu, Hawai'i, May 10, 2002.